

STATE OF NEW YORK

5129

2023-2024 Regular Sessions

IN ASSEMBLY

March 2, 2023

Introduced by M. of A. DINOWITZ -- Multi-Sponsored by -- M. of A. COLTON
-- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation
to access to health care providers in managed care plans

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subsection (e) of section 4803 of the insurance law, as
2 added by chapter 705 of the laws of 1996, is amended to read as follows:

3 (e) No insurer shall terminate or refuse to renew a contract for
4 participation in the in-network benefits portion of an insurer's network
5 for a managed care product solely because the health care professional
6 has: (1) advocated on behalf of an insured; (2) ~~[has]~~ filed a complaint
7 against the insurer; (3) ~~[has]~~ appealed a decision of the insurer; (4)
8 provided information or filed a report pursuant to section forty-four
9 hundred six-c of the public health law; ~~[or]~~ (5) requested a hearing or
10 review pursuant to this section; or (6) rendered an opinion regarding
11 whether an insured's illness is terminal pursuant to section four thou-
12 sand eight hundred four of this article.

13 § 2. Subsections (e) and (f) of section 4804 of the insurance law,
14 subsection (e) as amended by section 9 of subpart B of part AA of chap-
15 ter 57 of the laws of 2022 and subsection (f) as added by chapter 705 of
16 the laws of 1996, are amended to read as follows:

17 (e) (1) If an insured's health care provider leaves the insurer's
18 in-network benefits portion of its network of providers for a managed
19 care product for reasons other than those for which the provider would
20 not be eligible to receive a hearing pursuant to paragraph one of
21 subsection (b) of section ~~[forty-eight]~~ four thousand eight hundred
22 three of this ~~[chapter]~~ article, the insurer shall provide written
23 notice to the insured of the provider's disaffiliation and permit the
24 insured to continue ~~[an ongoing course of treatment with]~~ to receive
25 health care procedures, treatments, and services from the insured's

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 current health care provider during a transitional period of: (A) [~~nine-~~
2 ~~ty days~~] one year from the later of the date of the notice to the
3 insured of the provider's disaffiliation from the insurer's network or
4 the effective date of the provider's disaffiliation from the insurer's
5 network; [~~or~~] (B) if the insured is pregnant at the time of the provid-
6 er's disaffiliation, the duration of the pregnancy and post-partum care
7 directly related to the delivery; or (C) a terminal illness or condi-
8 tion, until the time of such insured's death.

9 (2) During the transitional period the health care provider shall: (A)
10 continue to accept reimbursement from the insurer at the rates applica-
11 ble prior to the start of the transitional period, and continue to
12 accept the in-network cost-sharing from the insured, if any, as payment
13 in full; (B) adhere to the insurer's quality assurance requirements and
14 provide to the insurer necessary medical information related to such
15 care; and (C) otherwise adhere to the insurer's policies and procedures
16 including, but not limited to, procedures regarding referrals and
17 obtaining pre-authorization and a treatment plan approved by the insur-
18 er.

19 (f) If a new insured whose health care provider is not a member of the
20 insurer's in-network benefits portion of the provider network enrolls in
21 the managed care product, the insurer shall permit the insured to
22 continue [~~an ongoing course of treatment with~~] to receive health care
23 procedures, treatments, and services from the insured's current health
24 care provider during a transitional period of up to [~~sixty days~~] one
25 year from the effective date of enrollment or, if (1) the insured has a
26 [~~life-threatening disease or condition or a degenerative and disabling~~
27 ~~disease or condition~~] terminal illness or condition, until the time of
28 such insured's death, or (2) the insured has entered the second trimester
29 of pregnancy at the time of enrollment, in which case the transi-
30 tional period shall include the provision of post-partum care directly
31 related to the delivery. If an insured elects to continue to receive
32 care from such health care provider pursuant to this [~~paragraph~~]
33 subsection, such care shall be authorized by the insurer for the transi-
34 tional period only if the health care provider agrees (A) to accept
35 reimbursement from the insurer at rates established by the insurer as
36 payment in full, which rates shall be no more than the level of
37 reimbursement applicable to similar providers within the in-network
38 benefits portion of the insurer's network for such services; (B) to
39 adhere to the insurer's quality assurance requirements and agrees to
40 provide to the insurer necessary medical information related to such
41 care; and (C) to otherwise adhere to the insurer's policies and proce-
42 dures, including, but not limited to, procedures regarding referrals and
43 obtaining pre-authorization and a treatment plan approved by the insur-
44 er. In no event shall this subsection be construed to require an insur-
45 er to provide coverage for benefits not otherwise covered or to diminish
46 or impair pre-existing condition limitations contained within the
47 insured's contract.

48 § 3. Section 4804 of the insurance law is amended by adding two new
49 subsections (g) and (h) to read as follows:

50 (g) For the purposes of this section, the term "terminal illness or
51 condition" shall mean an illness or condition which, in the opinion of
52 the physician of the patient suffering from such terminal illness or
53 condition, is likely to cause or be a major contributing factor in caus-
54 ing such patient's death within three years.

55 (h) Provider incentives (monetary or otherwise) to a health care
56 provider relating to procedures, treatments, or services pursuant to

1 this section, which are intended to have the effect of inducing such
2 provider to provide care to an insured in a manner inconsistent with
3 this section, are prohibited.

4 § 4. Paragraphs (e) and (f) of subdivision 6 of section 4403 of the
5 public health law, paragraph (e) as amended by section 10 of subpart B
6 of part AA of chapter 57 of the laws of 2022 and paragraph (f) as added
7 by chapter 705 of the laws of 1996, are amended to read as follows:

8 (e) (1) If an enrollee's health care provider leaves the health main-
9 tenance organization's network of providers for reasons other than those
10 for which the provider would not be eligible to receive a hearing pursu-
11 ant to paragraph a of subdivision two of section forty-four hundred
12 six-d of this ~~chapter~~ article, the health maintenance organization
13 shall provide written notice to the enrollee of the provider's disaffil-
14 iation and permit the enrollee to continue an ~~ongoing course of treat-~~
15 ~~ment with~~ to receive health care procedures, treatments, and services
16 from the enrollee's current health care provider during a transitional
17 period of: (i) ~~ninety days~~ one year from the later of the date of the
18 notice to the enrollee of the provider's disaffiliation from the organ-
19 ization's network or the effective date of the provider's disaffiliation
20 from the organization's network~~+~~ or (ii) if the enrollee is pregnant
21 at the time of the provider's disaffiliation, the duration of the preg-
22 nancy and post-partum care directly related to the delivery, or (iii) if
23 the enrollee has a terminal illness or condition, until the time of such
24 enrollee's death.

25 (2) During the transitional period the health care provider shall: (i)
26 continue to accept reimbursement from the health maintenance organiza-
27 tion at the rates applicable prior to the start of the transitional
28 period, and continue to accept the in-network cost-sharing from the
29 enrollee, if any, as payment in full; (ii) adhere to the organization's
30 quality assurance requirements and to provide to the organization neces-
31 sary medical information related to such care; and (iii) otherwise
32 adhere to the organization's policies and procedures, including but not
33 limited to procedures regarding referrals and obtaining pre-authorization
34 and a treatment plan approved by the organization.

35 (f) If a new enrollee whose health care provider is not a member of
36 the health maintenance organization's provider network enrolls in the
37 health maintenance organization, the organization shall permit the
38 enrollee to continue ~~an ongoing course of treatment with~~ to receive
39 health care procedures, treatments, and services from the enrollee's
40 current health care provider during a transitional period of up to
41 ~~sixty days~~ one year from the effective date of enrollment, or if (i)
42 the enrollee has a ~~life-threatening disease or condition or a degenera-~~
43 ~~tive and disabling disease or condition~~ terminal illness or condition,
44 until the time of such enrollee's death, or (ii) the enrollee has
45 entered the second trimester of pregnancy at the effective date of
46 enrollment, in which case the transitional period shall include the
47 provision of post-partum care directly related to the delivery. If an
48 enrollee elects to continue to receive care from such health care
49 provider pursuant to this paragraph, such care shall be authorized by
50 the health maintenance organization for the transitional period only if
51 the health care provider agrees (A) to accept reimbursement from the
52 health maintenance organization at rates established by the health main-
53 tenance organization as payment in full, which rates shall be no more
54 than the level of reimbursement applicable to similar providers within
55 the health maintenance organization's network for such services; (B) to
56 adhere to the organization's quality assurance requirements and agrees

1 to provide to the organization necessary medical information related to
2 such care; and (C) to otherwise adhere to the organization's policies
3 and procedures, including, but not limited to, procedures regarding
4 referrals and obtaining pre-authorization and a treatment plan approved
5 by the organization. In no event shall this paragraph be construed to
6 require a health maintenance organization to provide coverage for bene-
7 fits not otherwise covered or to diminish or impair pre-existing condi-
8 tion limitations contained within the subscriber's contract.

9 § 5. Section 4403 of the public health law is amended by adding two
10 new subdivisions 10 and 11 to read as follows:

11 10. For the purposes of this section, "terminal illness or condition"
12 shall mean an illness or condition which, in the opinion of the physi-
13 cian of the patient suffering from such terminal illness or condition,
14 is likely to cause or be a major contributing factor in causing such
15 patient's death within three years.

16 11. Provider incentives (monetary or otherwise) to a health care
17 provider relating to procedures, treatments, or services provided pursu-
18 ant to this section, which are intended to induce or have the effect of
19 inducing such provider to provide care to an enrollee in a manner incon-
20 sistent with this section, are prohibited.

21 § 6. Subdivision 5 of section 4406-d of the public health law, as
22 added by chapter 705 of the laws of 1996, is amended to read as follows:

23 5. No health care plan shall terminate a contract or employment, or
24 refuse to renew a contract, solely because a health care provider has:

- 25 (a) advocated on behalf of an enrollee;
26 (b) filed a complaint against the health care plan;
27 (c) appealed a decision of the health care plan;
28 (d) provided information or filed a report pursuant to section forty-
29 four hundred six-c of this article; [~~or~~]
30 (e) requested a hearing or review pursuant to this section; or
31 (f) rendered an opinion regarding whether a patient's illness is
32 terminal pursuant to section forty-four hundred three of this article.

33 § 7. This act shall take effect on the one hundred twentieth day after
34 it shall have become a law and shall apply to all contracts issued,
35 renewed, modified or amended on and after such date.